BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	
ROBERT EDMUND GREAUX, M.D.,	Case No. 800-2015-015460
Physician's and Surgeon's Certificate	OAH No. 2016091040
No. A123280	
Respondent.	

DECISION AFTER NON-ADOPTION

This matter was heard before Karl S. Engeman, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, on November 15, 2016, in Sacramento, California.

Demond L. Philson, Deputy Attorney General, represented Complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California (Board).

Respondent Robert Edmund Greaux, M.D., appeared and represented himself.

Evidence was received, the record was closed, and the matter was submitted on November 15, 2016. The ALJ issued a Proposed Decision on December 13, 2016.

On February 7, 2017, Panel A of the Board issued an Order of Non-Adoption of Proposed Decision. Oral argument on the matter was heard by the Panel on April 27, 2017, with ALJ Ralph B. Dash presiding. Complainant was represented by Deputy Attorney General Demond L. Philson. Respondent was present and represented himself. Panel A, having read and considered the entire record, including the transcripts and the exhibits, and having considered the written and oral arguments presented by the parties, hereby enters this decision after non-adoption.

FACTUAL FINDINGS

1. Complainant brought the accusation solely in her official capacity as the Executive Director of the Board, Department of Consumer Affairs, State of California.

2. On October 17, 2012, the Board issued Physician's and Surgeon's Certificate Number A123280 to Respondent Robert Edmund Greaux, M.D. Respondent's certificate was in effect at all times relevant to the charges brought herein.

Findings on Cause for Discipline

3. Respondent was a third–year neurology resident at the University of California, Davis, Medical Center (UCDMC) until on or about June 22, 2015, at which time he was suspended from the program. On or about July 14, 2015, the Board received a Health Facility Report from UCDMC. The report recited that Respondent's hospital privileges had been suspended for substance abuse and he had been admitted to an inpatient substance abuse program. This initiated a Board investigation that disclosed Respondent's conduct described below.

4. On June 18, 2015, Respondent was working at the UCDMC as a senior neurology resident. He left his assigned inpatient ward without notifying his superiors or providing for coverage by another senior neurology resident or an alternative plan for coverage. This was a very serious violation of hospital protocols and Respondent's responsibilities as the senior neurological resident on his assigned ward. As noted below, Respondent's absence without permission was directly related to his ongoing substance abuse.

5. On June 20, 2015, Respondent was working with Vicki Wheelock, M.D., the Program Director of the UCDMC neurology residency program. Part of Dr. Wheelock's responsibilities that day was to assess Respondent's interaction with neurology patients. Respondent was less than two weeks away from completion of his neurology residency and the assessment was required for completion of the program and eligibility for board certification in neurology. Dr. Wheelock noticed that Respondent was moving and talking very slowly and took an unusually long time to diagnose patients. While Dr. Wheelock did not testify at the administrative hearing, Respondent acknowledged in his testimony at the hearing that his ability to care for patients on this occasion was impaired as a result of withdrawal symptoms from his habitual controlled substance abuse.

6. As a result of the behaviors described above, Respondent was asked to meet with Dr. Wheelock and Dr. Yellowlees, the Well Being Committee Chair, on June 22, 2015. Respondent told Dr. Wheelock and Dr. Yellowlees that he had taken approximately eight prescribed Norco tablets one or two days before his shift on June 20, 2015. He submitted a urine sample for analysis on June 22, 2015. The sample was analyzed on June 23, 2015, and was positive for cocaine and heroin. On June 24, 2015, Respondent met with UCDMC administrators including the Chief Medical Officer, the Director of all graduate medicine programs, and the Chair of the Neurology Department. Respondent was informed that he had been suspended from the neurology residency program. During this meeting, Respondent admitted his substance abuse, which included heroin. He explained that he suffered from Ehlers-Danlos Syndrome which causes painful joint dislocations of the hips and shoulders. Respondent related that he had a prescription for Norco, but did not want to take it so he began using a home-brewed poppy pod tea. The tea was difficult to consume and caused vomiting, so Respondent resorted to heroin, which he purchased from a neighbor. Respondent told the administrators that he had begun attending Narcotics Anonymous meetings and was seeking a reasonably priced outpatient substance abuse treatment program.

7. On October 13, 2015, the Board's investigator met with Respondent. Respondent related his chronic pain from Ehlers-Danlos syndrome, which caused his joints to randomly dislocate. He initially tried over-the-counter pain medications, such as Tylenol and ibuprofen, but these were ineffective. He also tried marijuana, which provided no relief. When a neighbor recommended heroin, Respondent said he agreed to ingest it in desperation. Respondent used cocaine on a single occasion when he smoked a cigarette laced with the drug shortly before his urinalysis.

8. In his testimony at the administrative hearing, Respondent acknowledged the ingestion of heroin beginning in fall 2014, which use gradually increased to regular use at nighttime and on his days off during the last year of his neurology residency in 2014 and 2015. The drug interfered with his sleep so he was sleepy during the day and had difficulty concentrating. He suffered from regular bouts of diarrhea that caused him to hide in the hospital's bathrooms. Respondent described the effects of his heroin use as experiencing a strong desire to sleep on the next day and wanting to "jump out of your skin" on the second day after use. On the occasion that Respondent abandoned his position as ward senior neurology resident, Respondent left the hospital to seek treatment at another hospital's emergency room for his withdrawal symptoms.

9. Heroin is a Schedule I controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code. Norco (hydrocodone and acetaminophen) and cocaine are Schedule II controlled substances pursuant to Division 10 (commencing with Section 11000) of the Health and Safety Code. Heroin, cocaine and Norco are narcotic drugs pursuant to Health and Safety Code section 11019.

10. Respondent used and administered to himself controlled substances to the extent and in a manner dangerous and injurious to himself and his patients. Respondent practiced medicine under the influence of narcotic drugs to the extent that his use impaired his ability to practice medicine safely.

11. Respondent is 32 years old. In 2006, he graduated from Rutgers University with a degree in psychology. He graduated from Tufts University Medical School in 2011. Respondent was awarded UCDMC's only four-year combined general medicine internship and neurology residency program, which he began in July 2011. After successful completion of his internship, he began his neurology residency on June 30, 2012. He was only eight days from completion of the program when he was suspended. Respondent had no problems during the first approximately three years of his program. He received awards for teaching other medical students and was recognized for the fastest administration of an anti-stroke medicine to a patient. He was well regarded by fellow students and his supervisors.

12. Respondent began noticing symptoms of Ehlers-Danlos Syndrome when he was 18 and his condition worsened over subsequent years. As noted above, he initially treated the pain associated with joint dislocations with over-the-counter pain killers and then received a prescription for Percocet when the pain increased. He has had four

surgeries to repair dislocations, three on his right shoulder and one on his left shoulder. In the last year of his residency, the pain increased and surgical repairs did not last as long. The condition led to arthritis in affected joints. Respondent submitted a UC Davis Health System visit summary in which his doctor listed Ehlers-Danlos Syndrome as a diagnosis on December 19, 2012. Respondent also submitted a consultation report from the UCDMC M.I.N.D. Institute, dated November 5, 2012, and addressed to Respondent's family practice physician. The report describes a genetic evaluation relating to Ehlers–Danlos Syndrome. The report confirms that Respondent meets the clinical criteria for Ehlers–Danlos Syndrome, hypermobility type.

13. In mid-2014, Respondent was reluctant to continue using prescribed narcotic pain medication such as Percocet or Norco. His only explanation was his concern about being viewed as a drug abuser by his prescribing physicians. Ironically, this led to his experimentation with more dangerous alternatives, beginning with the poppy pods from which he brewed an opium based tea. When Respondent could no longer ingest the poppy tea, he turned to heroin after it was suggested by a neighbor. Respondent smoked or orally ingested the heroin, but did not inject it. As noted above, Respondent only used cocaine once. He used it to combat the effects of heroin withdrawal when he needed to do some housecleaning.

14. When UCDMC suspended Respondent, they voluntarily continued his health benefits so he could enroll in a rehabilitation program. Respondent enrolled in A New Dawn Treatment Center's in-patient program on or about June 29, 2015, and was discharged on July 7, 2015, when his insurance would no longer pay for the program. Respondent paid for the last two days himself. Respondent then began New Dawn's outpatient program, a cognitive therapy treatment 32-session regimen. He completed the program on September 23, 2015. Respondent has also attended Narcotics Anonymous meetings three or four times a week and is seeking a sponsor. Respondent has been clean and sober since the first few days of the New Dawn in-patient program when opiates are used to ease the detoxification of patients. He admits to lingering cravings for controlled substances, but his desire is now nearly non-existent.

15. Respondent still experiences partial and full joint dislocations, but he is able to manage his condition with physical therapy, yoga, and over-the-counter medications. He has returned to playing the piano, which helps him. Respondent is essentially destitute. He owes approximately $400,000 in school loans and until recently has been unemployed. At the time of the administrative hearing, he had been employed for two weeks as a Lyft driver. He lost his residence and has been "couch surfing" with three different friends and occasionally living out of his car.

16. Respondent said that he is ashamed of his conduct. Respondent now acknowledges that he was impaired when treating his patients, but he did not appreciate his condition when he was regularly using heroin. Respondent believes he was a good neurologist and would very much like the opportunity to prove that he can be trusted to safely treat patients. He would welcome random drug screening and other oversight.

LEGAL CONCLUSIONS

1. The standard of proof which must be met to establish the charging allegations herein is "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) This means the burden rests with Complainant to offer proof that is clear, explicit and unequivocal--so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

2. Protection of the public "shall be the highest priority" for the Board and administrative law judges in exercising their disciplinary authority. (Bus. & Prof. Code, § 2229.) The Board "shall, wherever possible, take action that is calculated to aid in the rehabilitation of the licensee, or where, due to a lack of continuing education or other reasons, restriction on scope of practice is indicated, to order restrictions as are indicated by the evidence." (Bus. & Prof. Code, § 2229, subd. (b).) "Where rehabilitation and protection are inconsistent, protection shall be paramount." (Bus. & Prof. Code, § 2229, subd. (c).)

3. The purpose of the Medical Practice Act[1] is to assure the high quality of medical practice; in other words, to keep unqualified and undesirable persons and those guilty of unprofessional conduct out of the medical profession. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App. 3d 564, 574.) The imposition of license discipline does not depend on whether patients were injured by unprofessional medical practices. (*See Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d. 1471; *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.) Our courts have long held that the purpose of physician discipline by the Board is not to punish but to "protect the life, health and welfare of the people at large and to set up a plan whereby those who practice medicine will have the qualifications which will prevent, as far as possible, the evils which could result from ignorance or incompetency or a lack of honesty and integrity." (*Furnish v. Board of Medical Examiners* (1957) 149 Cal.App.2d 326, 331.

4. Business and Professions Code section 2234, subdivision (a), reads:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

[1] Business and Professions Code sections 2000 et seq.

5. Business and Professions Code section 2239, subdivision (a), reads:

> (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

6. Business and Professions Code section 2280 reads:

> No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such an extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

7. Respondent is guilty of unprofessional conduct pursuant to Business and Professions Code section 2234, subdivision (a), in conjunction with Business and Professions Code section 2239, subdivision (a) and Business and Professions Code section 2280 by reason of Factual Findings 3 through 10.

8. Respondent is obviously a gifted neurologist. He recognizes that his use of heroin, an illicit "street drug," for most of the last year of his residency posed an actual threat to the health and safety of his patients. Respondent testified that he is ready and willing to accept the terms and conditions necessary for public protection.

9. Respondent testified that he has been clean since shortly after beginning A New Dawn's treatment program in summer 2015. Given Respondent's history, however, a substantial period of probation (seven years) along with the imposition of the Uniform Standards for Substance-Abusing Licensees, and other terms and conditions, is warranted. With these safeguards in place, the Board will ensure that Respondent is not returned to practice until Respondent can confirm he is clean and sober and has established a watchful support network to protect the public and sustain his rehabilitation.

ORDER

Physician's and Surgeon's Certificate Number A123280 issued to Respondent Robert Edmund Greaux is hereby revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years upon the following terms and conditions:

1. Actual Suspension

As part of probation, Respondent is suspended from the practice of medicine for 60 days beginning the day after the effective date of this decision.

2. Clinical Diagnostic Evaluations and Reports

Within thirty (30) calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo and complete a clinical diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed board certified physician and surgeon. The examiner shall consider any information provided by the Board or its designee and any other information he or she deems relevant, and shall furnish a written evaluation report to the Board or its designee.

The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of physicians and surgeons with substance abuse disorders, and is approved by the Board or its designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations. The evaluator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation. The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to Respondent's rehabilitation and ability to practice safely. If the evaluator determines during the evaluation process that Respondent is a threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24) hours of such a determination.

In formulating his or her opinion as to whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed, including participation in an inpatient or outpatient treatment program, the evaluator shall consider the following factors: Respondent's license type; Respondent's history; Respondent's documented length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use); Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical history and current medical condition; the nature,

duration and severity of Respondent's substance abuse problem or problems; and whether Respondent is a threat to himself or herself or the public.

For all clinical diagnostic evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator requests additional information or time to complete the evaluation and report, an extension may be granted, but shall not exceed thirty (30) days from the date the evaluator was originally assigned the matter.

The Board shall review the clinical diagnostic evaluation report within five (5) business days of receipt to determine whether Respondent is safe to return to either part-time or full-time practice and what restrictions or recommendations shall be imposed on Respondent based on the recommendations made by the evaluator. Respondent shall not be returned to practice until he or she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of Regulations.

Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic evaluation, including any and all testing deemed necessary by the examiner, the Board or its designee, shall be borne by the licensee.

Respondent shall not engage in the practice of medicine until notified by the Board or its designee that he or she is fit to practice medicine safely. The period of time that Respondent is not practicing medicine shall not be counted toward completion of the term of probation. Respondent shall undergo biological fluid testing as required in this Decision at least two (2) times per week while awaiting the notification from the Board if he or she is fit to practice medicine safely.

Respondent shall comply with all restrictions or conditions recommended by the examiner conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified by the Board or its designee.

3. Psychiatric Evaluation

Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted toward the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

4. Psychotherapy

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

5. Notice of Employer or Supervisor Information

Within seven (7) days of the effective date of this Decision, Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of any and all employers and supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's worksite monitor, and Respondent's employers and supervisors to communicate regarding Respondent's work status, performance, and monitoring.

For purposes of this section, "supervisors" shall include the Chief of Staff and Health or Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff privileges.

6. **Controlled Substances - Abstain From Use**

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

7. **Alcohol - Abstain From Use**

Respondent shall abstain completely from the use of products or beverages containing alcohol.

If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation is effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the

notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption of the proposed decision, request for reconsideration, remands and other interlocutory orders issued by the Board. The cessation of practice shall not apply to the reduction of the probationary time period.

If the Board does not file an accusation or petition to revoke probation within 30 days of the issuance of the notification to cease practice or does not provide Respondent with a hearing within 30 days of such a request, the notification of cease practice shall be dissolved.

8. Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine, Respondent shall contract with a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all the following standards:

(a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.

(b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines

(c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.

(d) Its specimen collectors observe the collection of testing specimens.

(e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.

(f) Its testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative results within one (1) business day and will be notified of negative test results within seven (7) business days.

(g) Its testing locations possess all the materials, equipment, and technical expertise necessary in order to test Respondent on any day of the week.

(h) Its testing locations are able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.

(i) It maintains testing sites located throughout California.

(j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the Respondent to check in daily for testing.

(k) It maintains a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.

(l) It employs or contracts with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.

(m) It will not consider a toxicology screen to be negative if a positive result is obtained while practicing, even if the Respondent holds a valid prescription for the substance.

Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements above.

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one (1) business day and negative test results within seven (7) business days of the results becoming available. Respondent shall maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent.

If a biological fluid test result indicates Respondent has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order Respondent to cease practice and instruct Respondent to leave any place of work where Respondent is practicing medicine or providing medical services. The Board shall immediately notify all of Respondent's employers, supervisors and work monitors, if any, that Respondent may not practice medicine or provide medical services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or conditions the Board determines are necessary for public protection or to enhance Respondent's rehabilitation.

9. <u>Substance Abuse Support Group Meetings</u>

Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior approval, the name of a substance abuse support group which he or she shall attend for the duration of probation. Respondent shall attend substance abuse support group meetings at least once per week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse support group meeting costs.

The facilitator of the substance abuse support group meeting shall have a minimum of three (3) years' experience in the treatment and rehabilitation of substance abuse, and shall be licensed or certified by the state or nationally certified organizations. The facilitator shall not have a current or former financial, personal, or business relationship with Respondent within the last five (5) years. Respondent's previous participation in a substance abuse group support meeting led by the same facilitator does not constitute a prohibited current or former financial, personal, or business relationship.

The facilitator shall provide a signed document to the Board or its designee showing Respondent's name, the group name, the date and location of the meeting, Respondent's attendance, and Respondent's level of participation and progress. The facilitator shall report any unexcused absence by Respondent from any substance abuse support group meeting to the Board, or its designee, within twenty-four (24) hours of the unexcused absence.

10. Worksite Monitor for Substance-Abusing Licensee

Within thirty (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a worksite monitor, the name and qualifications of one or more licensed physician and surgeon, other licensed health care professional if no physician and surgeon is available, or, as approved by the Board or its designee, a person in a position of authority who is capable of monitoring the Respondent at work.

The worksite monitor shall not have a current or former financial, personal, or familial relationship with Respondent, or any other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board or its designee. If it is impractical for anyone but Respondent's employer to serve as the worksite monitor, this requirement may be waived by the Board or its designee, however, under no circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor shall have an active unrestricted license with no disciplinary action within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth by the Board or its designee.

Respondent shall pay all worksite monitoring costs.

The worksite monitor shall have face-to-face contact with Respondent in the work environment on as frequent a basis as determined by the Board or its designee, but not less than once per week; interview other staff in the office regarding Respondent's behavior, if requested by the Board or its designee; and review Respondent's work attendance.

The worksite monitor shall verbally report any suspected substance abuse to the Board and Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected substance abuse does not occur during the Board's normal business hours,

the verbal report shall be made to the Board or its designee within one (1) hour of the next business day. A written report that includes the date, time, and location of the suspected abuse; Respondent's actions; and any other information deemed important by the worksite monitor shall be submitted to the Board or its designee within 48 hours of the occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the Board or its designee which shall include the following: (1) Respondent's name and Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3) the worksite monitor's license number, if applicable; (4) the location or location(s) of the worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance; (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can lead to suspected substance abuse by Respondent. Respondent shall complete any required consent forms and execute agreements with the approved worksite monitor and the Board, or its designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

If the worksite monitor resigns or is no longer available, Respondent shall, within five (5) calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

11. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan.

If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine and whether Respondent is practicing medicine safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

In lieu of a monitor, Respondent may participate in a professional enhancement program approved in advance by the Board or its designee, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

12. Solo Practice Prohibition

Respondent is prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely shares office space with another physician but is not affiliated for purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that location.

If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

If, during the course of the probation, the Respondent's practice setting changes and the Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent shall notify the Board or its designee within 5 calendar days of the practice setting change. If Respondent fails to establish a practice with another physician or secure employment in an appropriate practice setting within 60 calendar days of the practice setting change, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. The Respondent shall not resume practice until an appropriate practice setting is established.

13. Violation of Probation Condition for Substance Abusing Licensees

Failure to fully comply with any term or condition of probation is a violation of probation.

A. If Respondent commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease-practice order and order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice order issued by the Board or its designee shall state that Respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of the determining the length of time a Respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he or she may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (b).)

B. If Respondent commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue a cease-practice order;

(2) Order practice limitations;

(3) Order or increase supervision of Respondent;

(4) Order increased documentation;

(5) Issue a citation and fine, or a warning letter;

(6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense;

(7) Take any other action as determined by the Board or its designee. (Cal. Code Regs., tit. 16, § 1361.52, subd. (d).)

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if he or she has violated any term or condition of probation. (See Cal. Code Regs., tit. 16, § 1361.52, subd. (e).) If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

14. Notification

Within seven days of the effective date of this Decision, Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

15. Supervision of Physician Assistants and Advanced Practice Nurses

During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

16. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

17. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

18. General Probation Requirements

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

19. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

20. Non-Practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Board's Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California, will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

21. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

22. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 15 calendar days, deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

23. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

24. Completion of Probation

Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.

This Decision shall become effective at 5:00 p.m. on June 16, 2017 .

IT IS SO ORDERED this 19th day of May 2017.

Jamie Wright, J.D., Chair
Panel A
Medical Board of California

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	
	)	
	)	
	)	Case No.: 8002015015460
ROBERT EDMUND GREAUX, M.D.	)	
	)	OAH No.: 2016091040
	)	
	)	
	)	
Respondent.	)	

ORDER OF NON-ADOPTION OF PROPOSED DECISION

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted.** A panel of the Medical Board of California (Board) will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written arguments as the parties may wish to submit directed to the question of whether the proposed penalty should be modified. The parties will be notified of the date for submission of such arguments when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact Diamond Court Reporters, 1107 2nd Street, Ste. 210, Sacramento, CA 95814. Their telephone number is (916) 498-9288.

To order a copy of the exhibits, please submit a written request to this Board.

In addition, oral argument will only be scheduled if a party files a request for oral argument with the Board within 20 days from the date of this notice. If a timely request is filed, the Board will serve all parties with written notice of the time, date and place for oral argument. Oral argument shall be directed only to the question of whether the proposed penalty should be modified. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel. The Board directs the parties attention to Title 16 of the California Code of Regulations, sections 1364.30 and 1364.32 for additional requirements regarding the submission of oral and written arguments.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Board. The mailing address of the Board is as follows:

MEDICAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831
(916) 263-2442
Attention: Rozana Firdaus

Date: February 7, 2017

Jamie Wright, J.D., Chair
Panel A

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROBERT EDMUND GREAUX, M.D., Physician's and Surgeon's Certificate No. A123280 Respondent.	Case No. 800-2015-015460 OAH No.2016091040

PROPOSED DECISION

This matter was heard before Karl S. Engeman, Administrative Law Judge, Office of Administrative Hearings, State of California, on November 15, 2016, in Sacramento, California.

Demond L. Philson, Deputy Attorney General, represented complainant.

Respondent Robert Edmund Greaux, M.D., appeared and represented himself.

Evidence was received, the record was closed, and the matter was submitted on November 15, 2016.

FACTUAL FINDINGS

1. Kimberly Kirchmeyer (complainant) brought the accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board), Department of Consumer Affairs, State of California.

2. On October 17, 2012, the Board issued Physician's and Surgeon's Certificate Number A123280 to respondent Robert Edmund Greaux, M.D. (respondent). Respondent's certificate was in effect at all times relevant to the charges brought herein.

///

Findings on Cause for Discipline

3. Respondent was a third–year neurology resident at the University of California, Davis, Medical Center (UCDMC) until on or about June 22, 2015, at which time he was suspended from the program. On or about July 14, 2015, the Board received a Health Facility Report from UCDMC. The report recited that respondent's hospital privileges had been suspended for substance abuse and he had been admitted to an inpatient substance abuse program. This initiated a Board investigation that disclosed respondent's conduct described below.

4. On June 18, 2015, respondent was working at the UCDMC as a senior neurology resident. He left his assigned inpatient ward without notifying his superiors or providing for coverage by another senior neurology resident or an alternative plan for coverage. This was a very serious violation of hospital protocols and respondent's responsibilities as the senior neurological resident on his assigned ward. As noted below, respondent's absence without permission was directly related to his ongoing substance abuse.

5. On June 20, 2015, respondent was working with Vicki Wheelock, M.D., the Program Director of the UCDMC neurology residency program. Part of Dr. Wheelock's responsibilities that day was to assess respondent's interaction with neurology patients. Respondent was less than two weeks away from completion of his neurology residency and the assessment was required for completion of the program and eligibility for board certification in neurology. Dr. Wheelock noticed that respondent was moving and talking very slowly and took an unusually long time to diagnose patients. While Dr. Wheelock did not testify at the administrative hearing, respondent acknowledged in his testimony at the hearing that his ability to care for patients on this occasion was impaired as a result of withdrawal symptoms from his habitual controlled substance abuse.

6. As a result of the behaviors described above, respondent was asked to meet with Dr. Wheelock and Dr. Yellowees, the Well Being Committee Chair, on June 22, 2015. Respondent told Dr. Wheelock and Dr. Yellowees that he had taken approximately eight prescribed Norco tablets one or two days before his shift on June 20, 2015. He submitted a urine sample for analysis on June 22, 2015. The sample was analyzed on June 23, 2015, and was positive for cocaine and heroin. On June 24, 2015, respondent met with UCDMC administrators including the Chief Medical Officer, the Director of all graduate medicine programs, and the Chair of the Neurology Department. Respondent was informed that he had been suspended from the neurology residency program. During this meeting, respondent admitted his substance abuse, which included heroin. He explained that he suffered from Ehlers-Danlos Syndrome which causes painful joint dislocations of the hips and shoulders. Respondent related that he had a prescription for Norco, but did not want to take it so he began using a home-brewed poppy pod tea. The tea was difficult to consume and caused vomiting, so respondent resorted to heroin, which he purchased from a neighbor. Respondent told the administrators that he had begun attending Narcotics Anonymous

meetings and was seeking a reasonably priced outpatient substance abuse treatment program.

7. On October 13, 2015, the Board's investigator met with respondent. Respondent related his chronic pain from Ehlers-Danlos syndrome, which caused his joints to randomly dislocate. He initially tried over-the-counter pain medications, such as Tylenol and Ibuprofen, but these were ineffective. He also tried Marijuana, which provided no relief. When a neighbor recommended heroin, respondent said he agreed to ingest it in desperation. Respondent used cocaine on a single occasion when he smoked a cigarette laced with the drug shortly before his urinalysis.

8. In his testimony at the administrative hearing, respondent acknowledged the ingestion of heroin beginning in the fall of 2014, which use gradually increased to regular use at nighttime and on his days off during the last year of his neurology residency in 2014 and 2015. The drug interfered with his sleep so he was sleepy during the day and had difficulty concentrating. He suffered from regular bouts of diarrhea that caused him to hide in the hospital's bathrooms. Respondent described the effects of his heroin use as experiencing a strong desire to sleep on the next day and wanting to "jump out of your skin" on the second day after use. On the occasion that respondent abandoned his position as ward senior neurology resident, respondent left the hospital to seek treatment at another hospital's emergency room for his withdrawal symptoms.

9. Heroin is a Schedule I controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code. Norco (hydrocodone and acetaminophen) and cocaine are Schedule II controlled substances pursuant to Division 10 (commencing with Section 11000) of the Health and Safety Code. Heroin, cocaine and Norco are narcotic drugs pursuant to Health and Safety Code section 11019.

10. Respondent used and administered to himself controlled substances to the extent and in a manner dangerous and injurious to himself and his patients. Respondent practiced medicine under the influence of narcotic drugs to the extent that his use impaired his ability to practice medicine safely.

Mitigation, Rehabilitation and Other Findings

11. Respondent is 32 year old. In 2006, he graduated from Rutgers University with a degree in psychology. He graduated from Tufts University Medical School in 2011. Respondent was awarded UCDMC's only four-year combined general medicine internship and neurology residency program, which he began in July of 2011. After successful completion of his internship, he began his neurology residency on June 30, 2012. He was only eight days from completion of the program when he was suspended. Respondent had no problems during the first approximately three years of his program. He received awards for teaching other medical students and was recognized for the fastest administration of an anti-stroke medicine to a patient. He was well regarded by fellow students and his supervisors.

12. Respondent began noticing symptoms of Ehlers-Danlos Syndrome when he was 18 and his condition worsened over subsequent years. As noted above, he initially treated the pain associated with joint dislocations with over-the-counter pain killers and then received a prescription for Percocet when the pain increased. He has had four surgeries to repair dislocations, three on his right shoulder and one on his left shoulder. In the last year of his residency, the pain increased and surgical repairs did not last as long. The condition led to arthritis in affected joints. Respondent submitted a UC Davis Health System visit summary in which his doctor listed Ehlers-Danlos Syndrome as a diagnosis on December 19, 2012. Respondent also submitted a consultation report from the UCDMC M.I.N.D. Institute, dated November 5, 2012, and addressed to respondent's family practice physician. The report describes a genetic evaluation relating to Ehlers–Danlos Syndrome. The report confirms that respondent meets the clinical criteria for Ehlers–Danlos Syndrome, hypermobility type.

13. In mid-2014, respondent was reluctant to continue using prescribed narcotic pain medication such as Percocet or Norco. His only explanation was his concern about being viewed as a drug abuser by his prescribing physicians. Ironically, this led to his experimentation with more dangerous alternatives, beginning with the poppy pods from which he brewed an opium based tea. When respondent could no longer ingest the poppy tea, he turned to heroin after it was suggested by a neighbor. Respondent smoked or orally ingested the heroin, but did not inject it. As noted above, respondent only used cocaine once. He used it to combat the effects of heroin withdrawal when he needed to do some housecleaning.

14. When UCDMC suspended respondent, they voluntarily continued his health benefits so he could enroll in a rehabilitation program. Respondent enrolled in A New Dawn Treatment Center's in-patient program on or about June 29, 2015, and was discharged on July 7, 2015, when his insurance would no longer pay for the program. Respondent paid for the last two days himself. Respondent then began New Dawn's outpatient program, a cognitive therapy treatment 32-session regimen. He completed the program on September 23, 2015. Respondent has also attended Narcotics Anonymous meetings three or four times a week and is seeking a sponsor. Respondent has been clean and sober since the first few days of the New Dawn in-patient program when opiates are used to ease the detoxification of patients. He admits to lingering cravings for controlled substances, but his desire is now nearly non-existent.

15. Respondent still experiences partial and full joint dislocations, but he is able to manage his condition with physical therapy, yoga, and over-the-counter medications. He has returned to playing the piano, which helps him. Respondent is essentially destitute. He owes approximately $400,000 in school loans and until recently has been unemployed. At the time of the administrative hearing, he had been employed for two weeks as a Lyft driver. He lost his residence and has been "couch surfing" with three different friends and occasionally living out of his car.

16. Respondent said that he is ashamed of his conduct. Respondent now acknowledges that he was impaired when treating his patients, but he did not appreciate his condition when he was regularly using heroin. Respondent believes he was a good neurologist and would very much like the opportunity to prove that he can be trusted to safely treat patients. He would welcome random drug screening and other oversight.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2234, subdivision (a), reads:

> The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:
>
> (a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

2. Business and Professions Code section 2239, subdivision (a), reads:

> (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

3. Business and Professions Code section 2280 reads:

> No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such an extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor.

4. Respondent is guilty of unprofessional conduct pursuant to Business and Professions Code section 2234, subdivision (a), in conjunction with Business and Professions Code section 2239, subdivision (a), and Business and Professions Code section 2280 by reason of Factual Findings 3 through 10.

5. Respondent is obviously a gifted neurologist, but his use of heroin, an illicit "street drug," for most of the last year of his residency in a manner that posed an actual threat to the health and safety of his patients renders him unfit to practice medicine at this time. Respondent failed to offer sufficient evidence of sustained rehabilitation to demonstrate that it would be consistent with the public health, safety or welfare to allow him to retain his license. Consequently, his license must be revoked.

ORDER

Physician's and Surgeon's Certificate Number A123280 issued to respondent Robert Edmund Greaux is hereby revoked.

DATED: December 13, 2016

DocuSigned by:
Karl Engeman
968134D25B3B4AC...

KARL S. ENGEMAN
Administrative Law Judge
Office of Administrative Hearings

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General
DEMOND L. PHILSON
Deputy Attorney General
State Bar No. 220220
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 322-9674
Facsimile: (916) 327-2247
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **Robert Edmund Greaux, M.D.** 4150 V Street, Suite 3116 Sacramento, CA 95817 Physician's and Surgeon's Certificate No. A123280 Respondent.	Case No. 800-2015-015460 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about October 17, 2012, the Medical Board issued Physician's and Surgeon's Certificate Number A123280 to Robert Edmund Greaux, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2016, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Medical Board may order discipline of the licensee in accordance with Section 2227 or the Medical Board may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment."

5. Section 2280 of the Code states:

"No licensee shall practice medicine while under the influence of any narcotic drug or alcohol to such extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients. Violation of this section constitutes unprofessional conduct and is a misdemeanor."

CAUSE FOR DISCIPLINE

(Use of Controlled Substances and Dangerous Drugs)

[Bus. & Prof. Code Section 2239(a) and 2280]

6. Respondent is subject to disciplinary action under sections 2239(a) and 2280 in that he has used or administered to himself controlled substances, used dangerous drugs, and/or used alcoholic beverages to the extent, or in such a manner as to be dangerous or injurious to himself, or to any other person or to the public, or to the extent that such use impairs his ability to practice medicine safely. The circumstances are as follows:

7. Respondent is a resident in the Neurology residency program at UC Davis Medical Center (UCDMC).

///

///

8. On or about July 14, 2015, the Board received a Health Facility Report from UCDMC regarding Respondent. The report indicated that Respondent's hospital privileges were suspended and that he was admitted into a substance abuse program.

9. The facts leading to the suspension are that Respondent left the hospital without notification on June 18, 2015, leaving the inpatient ward without a senior resident or a plan for coverage. Respondent also failed to answer multiple pages that evening. A physician who worked directly with Respondent on that date reported that his practice was inadequate. Respondent did not know essential details of diagnoses or patient identification. He was observed moving, speaking, and thinking slowly, typing slowly, repeatedly appearing drowsy and with poor concentration. This led to a substantial delay in diagnosis of the patient's condition. On that day, Respondent also did not complete required inpatient progress notes for patients.

10. On June 22, 2015, there was a meeting with Respondent at UCDMC. Respondent disclosed he had taken eight Norco on June 19, 2015, and still reported to work on June 20, 2015. A biological fluid test/urinalysis was performed on June 22, 2015, and the results were provided to UCDMC on June 24, 2015. The biological fluid test results were positive for cocaine[1] and opiates.[2]

11. On June 24, 2015, another meeting was held with Respondent at UCDMC. UCDMC informed Respondent that he was suspended from the neurology training program. Respondent reported that since he had a chronic syndrome, that was very painful, he manufactured his own pain relief of opium with poppy pods. Respondent disclosed when he did not have the poppy pod, or could not keep it down, he would use heroin.[3] Respondent represented that he eventually began to use both heroin and cocaine.

///

---

[1] Cocaine an addictive drug derived from coca or prepared synthetically, used as an illegal stimulant and sometimes medicinally as a local anesthetic.

[2] Opiates are a class of drugs that are commonly prescribed to treat pain. Prescription opiates include: Percocet (oxycodone and acetaminophen) Norco (hydrocodone and acetaminophen) Dilaudid (hydromorphone). They are Schedule II controlled substances.

[3] A highly addictive analgesic drug derived from morphine, often used illicitly as a narcotic producing euphoria. It is a Schedule I controlled substance.

12. On October 13, 2015, an investigator interviewed Respondent at the Health Quality Investigation Unit's Sacramento Field Office. During the interview Respondent again admitted to the use of heroin and cocaine. At the time of the interview, Respondent refused to submit to a biological drug test.

13. Respondent's medical records indicate that Respondent's DSM-IV Axis 1 diagnosis (on 3/27/15) was Opioid use disorder: severe (Heroin/Percocet/Norco) and cannabis use disorder: moderate.

14. Respondent's conduct, as set forth above, constitutes unprofessional conduct in that his use of alcohol is dangerous to the public and himself and of such extent as to impair his ability to practice in violation of Code sections 2239(a) and 2280.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A123280, issued to Robert Edmund Greaux, M.D.;

2. Revoking, suspending or denying approval of Robert Edmund Greaux, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering Robert Edmund Greaux, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: February 18, 2016

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SA2016300338
32382759.doc